



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 24, 1997

Ms. Helen M. Gros
Senior Assistant City Attorney
City of Houston
Legal Department
P.O. Box 1562
Houston, Texas 77251-1562

OR97-2578

Dear Ms. Gros:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. We assigned your request ID# 109519.

The City of Houston (the "city") received a request from a representative of the City Ethics Committee for the "PIRG investigations" (Public Integrity Review Group) concerning a particular individual currently serving on the Electrical Board of the City of Houston. The city seeks to withhold the requested information based on section 552.108 of the Government Code. You enclose the information the city seeks to withhold.

We note that information may be transferred from one governmental body to another without impairing confidentiality if a statute or contract requires that the records remain confidential in the recipient's custody. Open Records Decision Nos. 567 (1990), 424 (1984), 417 (1984). The individual requesting the information indicates that he is requesting the information as a representative of the ethics committee. The ethics committee has the duty and power to review and investigate allegations of impropriety on the part of city officials and candidates for city elective office. *Houston, Tex. Code* Art. II. Ethics Committee § 18-1 (1987). In determining the committee's membership, the mayor elicits three nominations from the legal community, the labor community, and the medical community. *Houston, Tex. Code* Art. II. Ethics Committee § 18-12 (1987). Additionally, nominations are elicited from the community at large with the city council having confirmation power over all the nominations. *Id.* However, you assert that the committee is "not of the same stature as an elected official, city official or department head, each of whom would be entitled to intra-departmental review of city documents without effectuating waiver under the public information act." Thus, it is our understanding the city considers the records request to be a request from a member of the public and that disclosure would waive the city's exceptions. Consequently, we will review your asserted exception to disclosure.

The Seventy-fifth Legislature amended section 552.108 of the Government Code to read as follows:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution;

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) the internal record or notation:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

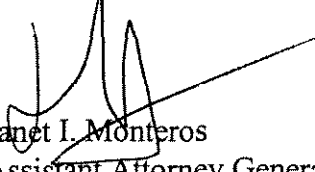
You have informed us that PIRG investigation No. 93-0079 resulted in the grand jury indictments of two individuals and in one conviction in *State vs. Love*, No. 9429018 (339th Dist. Ct., Harris County, Tex., Feb. 7, 1996) involving bribery of a public official. We conclude that, since there has been a conviction and you have not shown that the release of

the information contained within PIRG investigation No. 93-0079 would interfere with law enforcement or prosecution, you may not withhold the requested information from disclosure under section 552.108.

Section 552.108(a)(2) protects from disclosure PIRG investigations Nos. 94-0058 and 94-0028, as these files relate to investigations that did not result in a conviction or deferred adjudication. You must release the type of information that is considered to be front page offense report information. See Gov't Code § 552.108(c); *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/ glg

Ref.: ID# 109519

Enclosures: Submitted documents

cc: Mr. Don Horn
4349 N. MacGregor Way
Houston, Texas 77004
(w/o enclosures)